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NOTIFICATION OF ZONING HEARING EXAMINER'S DECISION

DATE OF DECISION: July 7, 1988

HEARING EXAMINER: L. A. Hinderhofer

RE: Zoning Appeal Case No. 3288

APPLICANT: Harford County, Maryland

LOCATION: Otter Point Public Landing

REQUEST: Special Exception and variances
to operate a boat launching
facility in the R2 District

Enclosed is an official copy of the Hearing Examiner's decision relative to the above referenced case.

The Hearing Examiner's decision shall become final twenty (20) calendar days after the date of the decision JULY 27, 1988, unless a written request for final argument before the County Council/Board of Appeals is filed before the expiration of the twenty (20) calendar day period by the Applicant/Applicant's Attorney, Opponents/People's Counsel, or a person aggrieved who was a party to the proceedings before the Hearing Examiner. In addition, any Board Member, upon written notice to the Secretary of the Council, may request final argument.

COUNTY COUNCIL OF HARFORD COUNTY

Doris Poulsen
ds

Doris Poulsen
Secretary of the Council

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Enclosure

cc: Applicant/Attorney
Opponents/Attorney
Adjoining Property Owners
Registered Hearing Attendees
Department of Planning and Zoning
Department of Law
People's Counsel

BOARD OF APPEALS CASE NO. 3288	*	BEFORE THE
APPLICANT: Harford County	*	ZONING HEARING EXAMINER
REQUEST: Special Exception and variances to operate a boat launching facility in the R2 District	* * *	OF HARFORD COUNTY
HEARING DATE: June 1, 1988	* *	Hearing Advertised Aegis: 4/28/88 & 5/5/88 Record: 4/27/88 & 5/4/88

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ZONING HEARING EXAMINER'S DECISION

The Applicant, Harford County, Maryland, is requesting a Special Exception, pursuant to Harford County Code Section 267-53(A)((4), to operate a boat launch and a variance from Section 267-53(A)(4)(a) and (b).

The subject parcel is known as the Otter Point Public Landing and is more particularly identified as Parcel No. 188, in Block 4-D, on Tax Map 62. The subject parcel contains three-eighths (3/8) of an acre, more or less, and is zoned R2, Urban Residential.

Prior to the taking of testimony, the Assistant County Attorney representing Harford County and the attorney representing the protestants met and agreed to a number of conditions which the parties stipulated should be imposed provided the County was able to meet the burden of proof for the Special Exception and variance. In consideration of Harford County agreeing to the conditions, the protestants agreed not to testify in opposition to Harford County's request.

Mr. Dennis Sigler, Chief of Zoning Administration and Enforcement for Harford County, appeared and testified that marinas and boat launching facilities are permitted in the R2 District as a Special Exception, but that variances would be required to Sections 267-53(A)(4)(a) and (b) of the Code. Mr. Sigler said that the subject parcel is unique because of its size and shape and because it is within the 100-year flood plain. The witness said that the

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parcel is water-oriented and has been used as a boat ramp since the late 1920's.

Mr. Robert Lee, Management Assistant with the Harford County Department of Parks and Recreation, appeared and testified that the County has maintained the Otter Point Public Landing since 1963. Mr. Lee said in 1983 the County closed the ramp and applied for grants from the Maryland Department of Natural Resources to improve the ramp. The witness said that if the ramp is not reopened, there is a possibility that the County would have to repay the grant funds to the State of Maryland. This witness described the property as being unique because of its small size and shape, and that the size of the parcel prohibits the 15 foot required buffer yard.

No protestants testified in opposition to the Applicant's request and the Staff Report recommends approval of the Special Exception and necessary variances.

Numerous area residents did appear and testify in favor of reopening the ramp and expressed concern about the conditions which the County and the protestants had agreed upon.

CONCLUSION:

The Code permits marinas and launching facilities as a Special Exception requiring Board of Appeals approval, pursuant to Section 267-53(A)(4). The requirements are as follows:

- (4) Marinas and boat launching, storage and repair. These uses may be granted in the AG, RR, R1, R2, R3, R4, B1, and B2 Districts, provided that:
 - (a) In the urban residential districts, such facilities shall be a part of a conventional development with open space (COS) or a planned residential development (PRD).
 - (b) A buffer yard at least fifteen (15) feet wide shall be provided along any boundary with an

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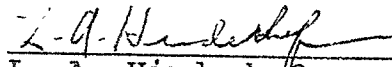
adjacent residential lot and along any public road.

The subject parcel is zoned R2 and the County has requested a variance to subsections (a) and (b) above. The uncontradicted testimony of the two witnesses to testify on behalf of the County was that the subject parcel is unique because of its size and shape, its orientation to the water, and its use as a launch facility since the late 1920's.

It is the finding of the Hearing Examiner that the subject parcel is unique for the reasons stated. Therefore, the requested Special Exception and required variances are hereby recommended, subject to the following conditions:

1. That "No Parking" signs shall be maintained along Otter Point Road.
2. That waste disposal barrels will be placed and maintained on the site.
3. That a portable toilet will be placed and maintained on the site.
4. That the hours of operation of the site shall be dawn to dusk.
5. That a gate shall be installed on the ramp and locked from dusk to dawn.
6. That the Applicant, through the Department of Parks and Recreation, will arrange for an individual to be on the site on holidays and weekends from March 1 to October 31 during the peak hours, from 9:00 a.m. to 5:00 p.m., except during inclement weather.
7. That routine maintenance shall be performed on the ramp and parking lot, as necessary.

Date JULY 7, 1988



L. A. Hinderhofer
Zoning Hearing Examiner